

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE OF ADJUSTMENT OF THE RATES OF	)	
COLUMBIA GAS OF KENTUCKY, INC.	)	CASE NO. 94-179
ON AND AFTER JULY 1, 1994	)	

O R D E R

This matter arises upon the filing of petitions of Columbia Gas of Kentucky, Inc. ("Columbia Gas"), filed July 27 and August 1, 1994. Columbia petitions the Commission, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the following documents: sample of swing contracts; information relating to payroll and executive compensation; information relating to the identity of Columbia Gas suppliers, gas volumes purchased and the average cost; certain comparative data; and its strategic plan. In support of its request, Columbia Gas argues that the information is exempt from public disclosure pursuant to KRS 61.878(1)(c)<sup>1</sup> and KRS 61.872(1)(k).<sup>2</sup>

KRS 61.872(1) requires that information filed with this Commission be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are included in KRS 61.878(1) which exempts 10 categories of information. One category of information exempted is commercial information confidentially disclosed to the Commission. KRS 61.878(1)(c). To

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<sup>1</sup> Columbia Gas quotes from this subsection, but it erroneously refers to subsection (b).

<sup>2</sup> Columbia Gas quotes from this subsection, but erroneously refers to subsection (j).

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qualify under that exemption, it must be established that disclosure is likely to cause substantial competitive injury to the party from whom the information was obtained. To qualify for this exemption, Columbia Gas must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed.

While Columbia alleges in its petitions that disclosure of the information relating to comparative data, payroll and executive compensation, gas purchase information, its strategic plan, and sample swing contracts would provide its competitors with confidential information about its commercial operations, it has not identified the competitors or demonstrated how the information could be used to Columbia's detriment. Columbia's petition does not satisfy the test set forth above and, therefore, confidential protection cannot be granted on that basis.

KRS 61.878(1)(k) exempts information the disclosure of which is prohibited or restricted by statute. Columbia Gas maintains that the information consists of trade secrets protected by KRS 365.880 through KRS 365.894.

KRS 365.880 through KRS 365.894 comprise this state's enactment of the Uniform Trade Secrets Act. That Act establishes equitable and legal remedies for the misappropriation of trade secrets as they are defined by those statutes. The Act, however, has no application to the open records provisions codified in KRS 61.870 et. seq. Therefore, the petition cannot be granted on those grounds.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

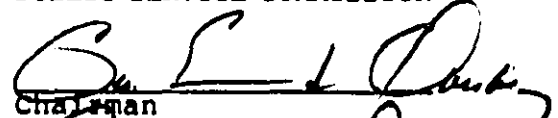
1. Columbia Gas's petitions to withhold the described information from public disclosure are hereby denied.

2. The information sought to be protected shall be held and retained by this Commission as confidential for a period of 20 days from the date of this Order to allow Columbia Gas an opportunity to amend its petition.

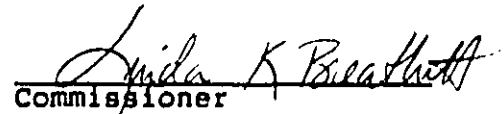
3. If at the expiration of the 20-day period no amended petition has been filed by Columbia Gas, the information shall be placed in the public record without further Orders herein.

Done at Frankfort, Kentucky, this 27th day of September, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director